

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of Fayetteville Local Law No. _____ of the year 2019.

A local law regarding proposed language for vacant commercial buildings.

Be it enacted by the Board of Trustees of the Village of Fayetteville as follows:

PROPOSED LANGUAGE FOR VACANT COMMERCIAL BUILDINGS

Chapter 56. Vacant Commercial Buildings

§ 56-1. Legislative intent.

The Village Board finds that the proliferation of vacant and abandoned buildings, structures and dwellings in the Village of Fayetteville causes a deterioration of neighborhoods and areas within the Village of Fayetteville and has a negative impact on the value of property in close proximity to the vacant and abandoned buildings, structures and dwellings. Furthermore, the Village Board finds that vacant and abandoned buildings, structures and dwellings have caused a serious threat to the safety and welfare of the residents of the Village and have eroded the quality of life of all who live and work in the Village. Abandoned and vacant buildings, structures and dwellings are places of infestation of rodents, vermin, insects, wild animals and other health-threatening creatures and diseases, provide shelter to criminals and vagrants who use such places to evade the police and to conduct illicit activities, and are an attractive nuisance to children and adults alike.

§ 56-2. Definitions.

For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

OCCUPIED COMMERCIAL BUILDING OR STRUCTURE

Any building or structure wherein one or more persons actually conducts a business in all or any part of the building as the business occupant, or as the legal or equitable owner(s)/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this article, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the United States Postal Service; proof of continual telephone, electric, gas,

heating, water and sewer services; a valid Village business license, or the most recent, federal, state, or city income tax statements indicating that the subject property is the official business address of the person or business claiming occupancy; or proof of pre-rental inspection.

OWNER

Any person, partnership, limited liability company, corporation or other entity who, alone or jointly with others, shall have legal title to any premises, with or without accompanying actual possession thereof; or who shall have charge, care or control of any commercial unit as a cooperative shareholder or as executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, title or control, including but not limited to a bank or lending institution, regardless of how such possession, title or control was obtained.

VACANT COMMERCIAL BUILDING OR STRUCTURE

A building or structure where no person or persons actually currently conducts a business, in any part of the building or structure as the legal or equitable owner(s) or tenant occupant(s), or owner-occupant(s), or tenant(s) on a permanent, non-transient basis. Or wherein electric and water accounts and/or inspections by Building Department Personnel verify that the structure is vacant.

§ 56-3. Annual registration of vacant commercial buildings required; registration fees.

A. Vacant building registration and fees.

1. Any owner of any commercial building or structure which has been vacant for more than 120 consecutive days shall file with the Code Enforcement Officer a vacant building registration. Said registration shall be in a form prescribed by the Code Enforcement Officer which shall include the street address and parcel number of such vacant building, the names and addresses of all owners, in accordance with Subsections A(1)(a) through (g) below, and any other information deemed necessary by the Code Enforcement Officer, and shall be notarized. In no instance shall the registration of a vacant commercial building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code requirement. For purposes of this section, the following shall also be applicable:
 - a) If the owner is a corporation, the names and residence addresses of all officers and directors of the corporation shall be provided and shall be accompanied by a copy of the most recent annual franchise tax report filed with the Secretary of State;
 - b) If the owner is a limited liability company, the name and residence address of the managing member;
 - c) If the owner is an estate, the name and business address of the executor or administrator of the estate shall be provided;
 - d) If the owner is a trust, the name and address of all trustees, grantors shall be provided;
 - e) If the owner is a partnership, the names and residence addresses of all partners with an interest of 10% or greater shall be provided;

- f) If the owner is any other form of unincorporated association, the names and residence addresses of all principals with an interest of 10% or greater shall be provided;
 - g) If the owner is an individual person, the name and residence address of that individual person shall be provided.
- 2. Local agent.
 - a) If none of the persons listed in Subsections A(1)(a) through (g) above are within the County of Onondaga, the registration statement also shall provide the name and address of a person who resides within the County of Onondaga and who is authorized to accept service of process on behalf of the owners.
 - b) Registration statement shall designate a responsible, local party or agent for purposes of notification in the event of an emergency affecting the public health, safety or welfare and maintenance of property.
- 3. Vacant commercial building plan.

The owner will submit a vacant commercial building plan which must meet the approval of the Code Enforcement Officer. The plan, at a minimum, must contain information from one of the following three proposals for the property:

 - a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition;
 - b) If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided below, along with the procedure that will be used to maintain the property, and a statement of the reason(s) why the building will be left vacant; or
 - c) If the building is to be returned to appropriate occupancy or use, rehabilitation plans for the building must be submitted to the Code Enforcement Officer. The rehabilitation plans will not exceed 365 days from the date of submission and will include progress benchmarks at least every four months, unless the Code Enforcement Officer grants an extension for good cause shown, upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, historic preservation or building codes.
- 4. The owner will notify the Code Enforcement Officer of any changes in information supplied as part of the vacant commercial building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Code Enforcement Officer.
- 5. The owner will notify the Code Enforcement Officer of any transfer of ownership within 15 days of transfer. The new owner will comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Code Enforcement Officer.

B. Fee.

1. The owner(s) of the vacant commercial property shall be responsible to register and pay the nonrefundable registration fee as established by the village board. Thereafter, the owner shall be responsible to register the vacant commercial property annually and pay the nonrefundable registration fee, and shall be billed by the Village Clerk annually on March 1 of each year.
2. One vacant commercial building registration may be filed to include all vacant commercial buildings situated upon a single property of an owner so registering. The fee shall apply to the property upon which the buildings are situated. A separate fee need not be paid for each building upon a single property.
3. This fee shall be charged to the owner(s) as long as the building remains vacant.

C. Appeal rights.

The owner shall have the right to appeal the imposition of the registration fees to the Village Board of Trustees, upon filing an application, in writing, to the Village Clerk no later than 30 calendar days from the date of the billing statement. On appeal, the owner shall bear the burden of providing proof that the building is occupied.

Waiver of registration fee.

A waiver of the registration fee for up to 90 days may be granted by the Code Enforcement Officer upon application of the owner, and upon review and advice of the Village Attorney. A waiver of the registration fee for up to 90 days may be given if an owner provides information that they are actively pursuing mitigation/rehabilitation funding. Said waiver can be renewed for an additional 90 days provided that this documentation is satisfied within 30 calendar days from the date of the bill for the registration fee, or if denied by the Code Enforcement Officer, upon appeal to the Village Board of Trustees if the owner:

1. Demonstrates with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or
2. Demonstrates he/she is actively attempting to sell or lease the property during the vacancy period; and
3. Is current on all registration fees and all other financial obligations and/or debts owed to the Village which are associated with the vacant property.

D. Delinquent registration fees as a lien.

1. After the owner is given notice of the amount of the registration fee due by certified mail, except for those owners that have properly perfected an appeal as provided above, and the owner fails to pay the amount due within 30 days, said amount shall constitute a debt due and owing to the Village. Ownership verification shall be by tax bill, water bill, electric bill, assessor's records, deed, or internet records accepted by New York State Courts. This obligation shall constitute a lien and a charge on the real property concerned until paid or otherwise satisfied and shall be collected by the Village Treasurer in the same manner provided by law for delinquent taxes.

2. Duty to amend registration statement. If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the Code Enforcement Officer within 30 days of the occurrence of such changes and advise the Code Enforcement Officer, in writing, of those changes.
3. Exceptions. This section shall not apply to any building owned by the United States, the state, the county, nor to any of their respective agencies or political subdivisions.

§ 56-4. Duty of owner to maintain vacant commercial premises.

A. The owner and any subsequent owner shall keep the vacant commercial building or structure secured and safe and the building and grounds properly maintained as provided in the NYS Property Maintenance Code.

B. Failure of the owner or any subsequent owner to maintain the building and premises as required herein will be grounds for the Village:

1. To remediate the building and bill the costs of same to the owner;
2. To revoke the rehabilitation plans; and
3. To subject the owner to fees and penalties as provided herein.

C. Notice to secure or maintain premise.

The Codes Enforcement Officer or other authorized public official is hereby authorized and empowered to notify in writing the owner of any private property within the Village or the agent of such owner to properly secure or maintain the vacant building, structure or premises that is dangerous to public health, safety or welfare. Such notice shall be by certified mail, return receipt requested, addressed to said owner at his last known address.

D. Action upon noncompliance.

Upon the failure, neglect or refusal of any owner or agent so notified to properly secure or maintain the vacant building, structure or premises dangerous to the public health, safety or welfare the Village of Fayetteville within 10 days after receipt of written notice provided for in Subsection C above, or within 10 days after the date of such notice in the event that the same is returned to the Village Post Office Department because of its inability to make delivery thereof, provided that the same was properly addressed to the last known address of such owner or agent, the Village Clerk or other authorized public official is hereby authorized and empowered to pay for the securing and/or making safe such building, structure or premises.

E. Charge included in tax bill.

When the Village has effected the remediation the actual cost thereof, plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto within 30 days shall constitute a debt due and owing to the Village and shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the Village, and said charge shall be due and payable by said owner at the time of payment of such bill. This obligation shall constitute a lien and a charge on the real property concerned until paid or otherwise satisfied and shall be collected by the Village Treasurer in the same manner provided by law for delinquent taxes.

§ 56-5. Duty of Building Department to maintain registry and notify.

The Code Enforcement Officer shall maintain the vacant commercial building registrations in the normal course of business and shall notify the local emergency services of all locations on the registry.

§ 56-6. Violations; penalties for offenses.

Any owner, or agent of an owner acting on behalf of the owner, who fails to register a vacant building or to pay any fees required to be paid pursuant to the provisions of this article, within 30 days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than \$1,000 nor more than \$15,000 for each failure to register, or for each failure to pay a required vacant building registration fee.

2. This local law is effective immediately upon filing with the Secretary of State.

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 2019 of the Village of Fayetteville was duly passed by the Board of Trustees on _____, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in the above paragraph.

Lorie Corsette, Village Clerk

Date: _____

STATE OF NEW YORK
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Village Attorney